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to purchase, we cannot fail, if we open our doors freely by day and in the evening to the public, to excite an ever-increasing interest which will lead to gifts of money and works of art, and eventually to the erection of such a building as will be an honor and an embellishment to any city.

No man ever regretted the time spent upon a work which when finished was pronounced perfect, and no one ever gauged a result, whether bad or good, by the hours or the years spent over it. The only important thing is that when done there should be no cause for regret. Better never have museum buildings than have bad ones, for if they are so they will give the lie to that clause of our programme which professes to serve the cause of art through architecture, the oldest and one of the noblest of arts.

CHARLES C. PERKINS.

ART. II. — THE SESSION.

To say that the government of the United States is passing through a period of transition is one of the baldest common-places of politics. This transition, which few persons deny, is, from a scientific point of view, an intensely interesting illustration of the manner in which principles are established. The generation which framed the American form of government meant it to be, not only in mechanism, but in theory, a clear and outspoken contradiction to opinions commonly accepted in Europe. The men who made the Constitution intended to make by its means a distinct issue with antiquity, and they had the most precise conception of the issue itself and of their own purposes in raising it. These purposes were perhaps chimerical. The hopes then felt were almost certainly delusive. And yet even the persons who grant the probable failure of the scheme, and expect the recurrence of the great problems in government which were then thought to be solved, cannot but look with satisfaction at the history of the Federal Constitution as the most convincing and the most interesting experiment that has

ever been made in the laboratory of political science, even if it only demonstrates the impossibility of success through its means.

The great object of terror and suspicion to the people of the thirteen provinces was Power ; not merely power in the hands of a president or a prince, of one assembly or of several, of many citizens or of few, but power in the abstract, wherever it existed and under whatever name it was known. "There is and must be," said Blackstone, "in all forms of government, however they began or by what right soever they exist, a supreme, irresistible, absolute, uncontrolled authority, in which the *jura summi imperii*, or the rights of sovereignty, reside"; and Parliament is the place "where that absolute despotic power which must in all governments reside somewhere is intrusted by the constitution of the British kingdoms." Supreme, irresistible authority must exist somewhere in every government, was the European political theory, and England solved her problem by intrusting it to a representative assembly to be used according to the best judgment of the nation. America, on the other hand, asserted that the principle was not true; that no such supreme power need exist in a government; that in the American government none such should be allowed to exist, because absolute power in any form was inconsistent with freedom; and that the new government should start from the idea that the public liberties depended upon denying uncontrolled authority to the political system in its parts or in its whole.

Every one knows with what a rigid and admirable logic this theory was worked out in framing the mechanism of the new republic. Not only were rights reserved to the people never to be parted with, but rights of great extent were reserved to the States as a sacred deposit to be jealously guarded. And even when it came to constructing the central government, the three great depositories of power were made independent of each other, checks on each other's assumption of authority, separately responsible to the people, that each might be a protection and not a danger to the public liberties. The framers of the Constitution did not indeed presume to prescribe or limit the powers a nation might exercise if its exist-

ence were at stake. They knew that under such an emergency all paper limitations must yield, but they still hoped that the lesson they had taught would sink so deep into the popular mind as to cause a re-establishment of the system after the emergency had passed. The hope was scarcely supported by the experience of history, but, like M. Necker in France, they were obliged to trust somewhat to the "virtues of the human heart."

The two great theories of government stood face to face during three quarters of a century. Europe still maintained that supreme power must be trusted to every government, democratic or not, and America still maintained that such a principle was inconsistent with freedom. The civil war broke out in the United States, and of course for the time obliterated the Constitution. Peace came, and with it came the moment for the final settlement of this long scientific dispute. If the constitutional system restored itself, America was right, and the oldest problem in political science was successfully solved.

Every one knows the strange concurrence of accidents, if anything in social sequence can be called accident, which seemed to prevent a fair working of the tendency to restoration during the four years that followed the close of actual war. With the year 1869 a new and peculiarly favorable change took place. Many good and true Americans then believed that the time had come, and that the old foundation on which American liberties had been planted would now be fully and firmly restored. There was, in fact, a brilliant opportunity for the new administration, not perhaps to change the ultimate result, but to delay some decades yet the actual demonstration of failure. The new President had unbounded popular confidence. He was tied to no party. He was under no pledges. And, above all, he had the inestimable advantage of a military training, which, unlike a political training, is calculated to encourage the moral distinction between right and wrong.

No one could fail to see with amusement the mingled feelings of alarm and defiance with which Senators and politicians waited the President's first move. Nor was it they alone, but

almost the entire public, that expected to see him at once grasp with a firm hand the helm of government, and give the vessel of state a steady and determined course. It was long before the more conservative class of citizens, who had no partisan prejudices, could convince themselves that in this respect they had not perhaps overrated so much as misconceived the character of the President, and that they must learn to look at him in a light entirely unlike any they had been hitherto accustomed to surround him with. This misconception or misunderstanding was, however, perfectly natural, and can be no matter for surprise when it is considered that even to the President's oldest and most intimate associates his character is still in some respects a riddle, and the secret of his uniform and extraordinary success is still a matter of dispute. Indeed, it may be doubted whether he himself, if he ever fell into the mischievous habit of analyzing his own mind, could answer his own questions in a manner that would satisfy his own curiosity. Nothing could be more interesting to any person who has been perplexed with the doubts which the President's character never fails to raise in every one who approaches him, than to have these doubts met and explained by some competent authority; by some old associate like General Sherman, with an active mind ever eager to grapple with puzzles; by some civil subordinate such as a civil subordinate ought to be, quick at measuring influences and at unraveling the tangled skein of ideas which runs through the brains of an administration. As a rule, however, the reply to every inquiry comes in the form of confessed ignorance: "We do not know why the President is successful; we only know that he succeeds."

Without attempting to explain what is evidently so complicated an enigma, one may still form a partial idea of General Grant's civil career from the facts which are now open to all the world. It seems clear at the outset that the President's mind rarely acts from any habit of wide generalization. As a rule, the ideas which he executes with so much energy, appear to come to him one by one, without close or rapid logical sequence; and as a person may see and calculate the effect of a drop of acid on an organic substance, so one may sometimes

almost seem to see the mechanical process by which a new idea eats its way into the President's unconscious mind,— where its action begins and where its force is exhausted. Hence arise both advantages and misfortunes. This faculty for assimilation of ideas, this nature, which the Germans would call thoroughly objective, under ordinary circumstances, and when not used by selfish men for corrupt purposes, gives elasticity, freedom from inveterate prejudices, and capacity for progress. It would be likely to produce a course of action, not perhaps strictly logical, nor perfectly steady, nor capable of standing the sharper tests of hostile criticism, but in the main practical, sensible, and in intention thoroughly honest. But when used by Jay Gould and Abel Rathbone Corbin with the skill of New York stock-brokers for illegitimate objects, the result is all the more disastrous in proportion to the energy of execution for which the President is so remarkable.

Most persons, however, and especially those who had formed their ideas of the President from his Vicksburg campaign, entertained a very different notion of his intellectual qualities. The Vicksburg campaign has puzzled equally the enemies and the friends of the President. General Sherman's frank expression of this feeling of surprise found its way into print in the form of a sincere tribute of admiration spoken by a man conscious of having underrated his superior officer. The public, on the strength of this brilliant campaign, assumed with reason that a general capable of planning and executing a military scheme such as Napoleon himself might have envied, must possess an aptitude for elaboration of idea and careful adaptation of means to ends such as would in civil administration produce a large and vigorous political policy. Yet it is quite certain that such refinement of conception was not in General Grant's nature. No such ambition entered his head. He neither encouraged it nor believed in its advantages. His own idea of his duties as President was always openly and consistently expressed, and may perhaps be best described as that of the commander of an army in time of peace. He was to watch over the faithful administration of the government; to see that the taxes were honestly collected; that the disbursements were honestly made; that economy was strictly

enforced; that the laws were everywhere obeyed, good and bad alike; and as it was the duty of every military commander to obey the civil authority without question, so it was the duty of the President to follow without hesitation the wishes of the people as expressed by Congress.

It is scarcely necessary to say that this is not the range of duties prescribed to an American President either by the Constitution or by custom, although it may be that which Congress desires and to which the system inevitably tends. More than this, it could not be realized. The President may indeed in one respect resemble the commander of an army in peace, but in another and more essential sense he resembles the commander of a ship at sea. He must have a helm to grasp, a course to steer, a port to seek; he must sooner or later be convinced that a perpetual calm is as little to his purpose as a perpetual hurricane, and that without headway the ship can arrive nowhere. The President, however, assumed at the outset that it was not his duty to steer; that his were only duties of discipline.

Under these circumstances, with a President who, while disbelieving in the propriety of having a general policy, must yet inevitably be compelled to assume responsibility; with one, too, whose mind, if not imaginative nor highly cultivated, was still curiously sensitive to surrounding influences, the necessity was all the greater that the gentlemen on whose advice and assistance he would be compelled to lean should be calculated to supplement his natural gifts. From him personally the public had not required high civil education. Rulers have always the right to command and appropriate the education and the intelligence of their people. But knowledge somewhere, either in himself or in his servants, is essential even to an American President, — perhaps to him most of all rulers, — and thus, though it was a matter of comparatively little importance that the President's personal notions of civil government were crude, and that his ideas of political economy were those of a feudal monarch a thousand years ago, it was of the highest possible consequence that his advisers should be able to supply the knowledge that he could not have been expected to possess, and should develop the ideas which his growing expe-

rience would give him. And as it was clear at the outset that questions of finance would assume overruling importance, it was evident that a responsibility of the most serious character would rest on the Secretary of the Treasury.

The official importance of the Secretary of the Treasury can hardly be over-estimated. Not only is his mere political power in the exercise of patronage far greater than that of any other cabinet officer, but in matters of policy almost every conceivable proposition of foreign or domestic interest sooner or later involves financial considerations and requires an opinion from a financial stand-point. Hence in the English system the head of administration commonly occupies the post of premier lord of the Treasury. In the American form of government the head of the Treasury is also the post of real authority, rivalling that of the President itself, and almost too powerful for harmony or subordination. The Secretary's voice ought to have more weight with the President than that of any other adviser. The Secretary's financial policy ought to be the one point on which each member of the administration is united with every other. At a time like the summer of 1869 when old issues were passing away and a new condition of things was at hand; when the public was waiting to be led or mildly kneeling to take up its master; it was more than ever important that the President should have in the Treasury a man who could command and compel respect.

In a former number of this Review,* in a passage sharply criticised at the time, an opinion of Mr. Boutwell's character was expressed, formed from a special stand-point, implying theories at which Mr. Boutwell would probably smile, and which he would disregard as springing from an unpractical and unprofitable mode of thought. Now that it becomes necessary to speak of him again, and this time from a stand-point more nearly identical with his own, there is danger of being again thought to say more than is strictly just. Unfortunately, no review of the year could be written which, in regard to the most important branch of the administration, should undertake to say nothing at all.

Mr. Boutwell was not a person to make good the wants of

* October, 1869. Article, "Civil Service Reform."

the President. General Grant wanted civil education, but in return he was peculiarly open to new ideas, and had in a marked degree the capacity to learn from any one who had the faculty to teach. Mr. Boutwell had no faculty whatever for teaching, and very little respect for knowledge that was not narrowly practical. He believed in knowledge just so far as it was convenient for him to justify his own theory that knowledge was a deception. He believed in common schools, and not in political science; in ledgers and cash-books, but not in Adam Smith or Mill; as one might believe in the multiplication-table, but not in Laplace or Newton. By a natural logic he made of his disbelief in the higher branches of political science a basis for his political practice, and thus grounding action on ignorance he carried out his principle to its remotest conclusions. He too, like the President, announced that he had no policy, and even more persistently than the President he attempted to govern on the theory that government was no concern of his. Other persons in a similar position would commonly have leaned either to the theorists on one side, or to so-called practical men on the other, but Mr. Boutwell treated both with the same indifference. He had all the theorists in Europe and America to choose from, but he did not listen to their teachings. He had all the practical men in the country at his service, but he did not follow their advice. He had all the best members of the Legislature to depend upon, but he did not desire their assistance. He had a costly and elaborate machinery maintained by the country to furnish him with any information he might require, but Mr. Boutwell never required information. Nay, it seems from published papers almost certain that Mr. Boutwell, sitting twice a week in consultation with his colleagues in the cabinet, cannot have controlled their measures nor even discussed his own. The President himself at the time of his Message could hardly have been consulted by the Secretary.

To analyze a policy which does not exist,—to trace the adaptation of means to ends where no adaptation was intended, is a mere waste of time and ingenuity. Yet there is no man in existence, however much he may aspire to it, who can succeed in absolutely obliterating all ideas from his mind, or can

prevent his acts from showing some trace of intelligence. This relation between ideas and acts, commonly known as a policy, was distinctly visible in Mr. Boutwell's course, although it was visible only within an extremely limited range. Of most political leaders it might have been foretold with certainty that they would expend their whole energy on a restoration of the currency, or on a reduction of the taxes, confident that if these were once settled the financial situation would be secure. Mr. Boutwell's passion was different. He had only a single object of enthusiastic ambition, but this was to redeem the national debt. To do this from day to day, — to collect more and more millions from the people, no matter by what devices; to cut down the expenses to their lowest point; to accumulate the surplus in the Treasury; to buy with it, month by month, more and more of the government's own debts, and thus to see the huge mass of indebtedness slowly dwindle and diminish in his hands, — this was a positive, tangible, self-evident proof of success, which appealed directly to the lowest order of intelligence, and struck with the greatest possible force the mind of the voting public. To this idea Mr. Boutwell sacrificed currency reform, revenue reform, and every hope of relief from taxation, and to this idea he subordinated even his own next ambition, that of lowering the rate of interest on the debt. Beyond this he abnegated ideas. He did nothing, said nothing, heard nothing, except when necessity compelled.

Although it is no doubt true that the policy thus embraced by Mr. Boutwell was neither broad nor deep, and certainly not that of a great statesman, yet it is by no means impossible that in pursuing this easy and simple course Mr. Boutwell may have taken the most direct path to an apparently brilliant success, such as it was his nature to desire, — a success far better calculated for his purposes than though he had strayed aside into the vast and comprehensive reforms, which would have dazzled the imaginations of Turgot, of Pitt, or of Hamilton. But the success which is gained by so meagre and sterile a conception is of little permanent value, even when compared with a bold and generous failure. If a critic were called upon to name the most unfortunate of all the financiers who have ever controlled the resources of France, he might, from Mr.

Boutwell's point of view, find difficulty in discovering a more conspicuous failure than the administration of Turgot. If he applied the same process to British finance, he might probably be compelled at last to fix upon no less illustrious a career than that of William Pitt. But if he were to test his theory by the opposite experiment of selecting from English history the nearest approach to Mr. Boutwell's ideal of financial success, he would certainly be compelled to pass in silence over the names of Montagu and of Walpole, of Pitt, of Peel, and of Gladstone, in order to draw from its almost forgotten resting-place the memory of some third-rate Chancellor of the Exchequer, some Nicholas Vansittart, whose very name is a blank even to the students of biographical cyclopædias. Mr. Vansittart, indeed, would in most respects, except for his curious financial knowledge, and his reverence for the financial teachings of his great master, Pitt, serve well as the ideal of Mr. Boutwell. A Chancellor of the Exchequer who, coming into office in 1812, at almost the darkest moment of England's struggle with the world, had remained at the head of the finances through the war; had met and triumphantly stood the shock of the return from Elba, and of Waterloo; had carried England back to specie payments after twenty years of paper money; had at a single operation reduced the interest on a capital of nearly \$800,000,000, at that time the largest sum ever dealt with in a mass; and who, to crown all, had arrived at the height of his ambition in 1823 by raising the surplus, applicable to the reduction of debt, to the unprecedented point of \$25,000,000, in spite of the opposition of the whole body of liberal and educated politicians, — a Chancellor of the Exchequer with twelve years of such triumphs as these could scarcely be denied the credit of supreme and unrivalled success. Yet such is the perverseness of history, and so unreasonable is human prejudice, that not only the contemporaries of Mr. Vansittart, although attached to him by his genial and good-natured manners, but also posterity, to which his name is so little familiar, have combined with one accord in agreeing that as a financial minister he was a conspicuous example of incompetence, who for years hung like a clog on the progress of England, and his name is now only mentioned with a smile of passing contempt.

But, so far as finance was concerned, Mr. Boutwell's policy might have been poorer even than it was, and yet the vigor of the country would have made it a success. The greatest responsibilities of a Secretary of the Treasury are not financial, and an administration framed upon the narrow basis of mere departmental activity must be always, except under the strongest of Presidents, an invitation to failure. The stormiest of cabinets, the most venturesome of advisers, the boldest of political rivals for power, are likely to produce in combination a better result than that unorganized and disjointed harmony, that dead unanimity, which springs from divided responsibility. Mr. Boutwell had neither the wish nor the scope to assume the functions or to wield the power of his office, and instead of stamping upon the President and his administration the impress of a strong controlling mind, he drew himself back into a narrow corner of his own, and encouraged and set the example of isolation at a time when the most concentrated action was essential to the rescue of the Executive.

Even in the quietest of times and under the most despotic chief such a departmental government is at best a doubtful experiment, but in the summer and autumn of 1869 it was peculiarly ill-timed. Every politician felt that the first year of the new administration would probably fix the future character of the government. The steady process by which power was tending to centralization in defiance of the entire theory of the political system; the equally steady tendency of this power to accumulate itself in the hands of the Legislature at the expense of the Executive and the Judiciary; the ever-increasing encroachments of the Senate; the ever-diminishing efficiency of the House; all the different parts and processes of the great general movement which indicated a certain abandonment of the original theory of the American system, and a no less certain substitution of a method of government, which promised to be both corrupt and inefficient, — all these were now either to be fixed upon the country beyond recall, or were to be met with a prompt and energetic resistance. To evade the contest was to accept the revolution. In order to resist with success, the President must have slowly built up his authority upon every side, until the vigor and success of his administration

overawed the Senate, and carried away the House by the sheer strength of popular applause. That such a result was possible no one can doubt who had occasion to see how much it was dreaded by the Washington politicians of the winter and spring of 1869, and how rapidly they resumed confidence on discovering that the President had no such schemes.

By the time Congress came together, in December, 1869, the warm hopes which had illuminated the election of November, 1868, had faded from the public mind. It was clear that the administration was marked by no distinctive character. No purpose of peculiar elevation, no broad policy, no commanding dignity, indicated the beginning of a new era. The old type of politician was no less powerful than under other Presidents. The old type of idea was not in the least improved by the personal changes between 1861 and 1870. The administration was not prepared for a contest with Congress, and at the last moment it was still without a purpose, without followers, and without a head.

Under these circumstances the President's Message was sent to the Capitol. It was studied with all the more curiosity because it was supposed to reflect the internal condition of the government. Nothing could well have presented a less reassuring prospect. The want of general plan and of unity of idea was so obvious that it was scarcely necessary to be assured of the harmony of the administration. An administration which did not care enough about its own opinions to quarrel about them was naturally harmonious. The President and the Secretary of the Treasury were discovered expressing opinions and offering recommendations diametrically opposed to each other, and apparently unconscious that, under all ordinary theories of government, it is usual that there should be a head. Nor was this all. The absence of a strong mind in the Treasury was as conspicuous in what was omitted as in what was said. Not only was the political economy, both of the Message and of Mr. Boutwell's Report, a subject into which the ridicule of the foreign press cut with easy facility, to the mortification of every friend of the government, but even where simpler declarations, not requiring previous knowledge of principles, would have satisfied every purpose, their absence was almost

as marked as was the presence of Mr. Boutwell's famous barrels of flour. In regard to the currency alone was the President at the head or in advance of public opinion, and in regard to the currency his Secretary offered him no active support. Other reforms shared a worse fate. The reduction of taxes was discouraged, the civil service was not noticed, and tariff reform was distinctly opposed. Had it not been for the good sense of the remarks on reconstruction and foreign affairs, the President's first appearance before Congress would have hazarded the reproach of absurdity.

The result, already a foregone conclusion, was at once apparent when Congress took up its work. So far as the President's initiative was concerned, the President and his Cabinet might equally well have departed separately or together to distant lands. Their recommendations were uniformly disregarded. Mr. Sumner, at the head of the Senate, rode roughshod over their reconstruction policy and utterly overthrew it, in spite of the feeble resistance of the House. Mr. Conkling then ousted Mr. Sumner from his saddle, and headed the Senate in an attack upon the Executive as represented by Judge Hoar, the avowed *casus belli* being the fact that the Attorney-General's manners were unsatisfactory to the Senate. But Mr. Conkling's most brilliant triumph was over the Census bill. Here he had a threefold victory, and it would be hard to say which of the three afforded him the keenest gratification. Single-handed he attacked Mr. Sumner, the House, and the Executive, and routed them all in most disastrous confusion. Never was factiousness more alluring or more successful than under Mr. Conkling's lead. Then again Mr. Sumner came to the front and obtained a splendid triumph over the President in regard to San Domingo. Mr. Sherman was less vigorous and less fortunate in regard to the currency and funding measures, but Mr. Boutwell asked so little it was difficult to do more than ignore him. And even in the House Mr. Dawes, the official spokesman of the government, if the government has an official spokesman, startled the entire country by a sudden and dashing volunteer attack on the only point of General Grant's lines on the absolute security of which he had prided himself,—his economy, and to this day no man under-

stands how Mr. Dawes's foray was neutralized or evaded, or whether Mr. Dawes was right or wrong.

The principal subjects of the Session, within the scope of the present Review, have been reconstruction, finance, and foreign affairs.

On the subject of reconstruction little will be here said. The merits or demerits of the system which has been adopted are no longer any essential element of the situation. The resistance to these measures rested primarily on the fact that they were in violation of the letter and spirit of the Constitution as regarded the rights of States, and the justification rested, not on a denial of the violation, but in the overruling fact of necessity. The measures were adopted with extreme reluctance by a majority of Congressmen; they were approved with equal reluctance by a majority of the people; but they have become law, and whatever harm may ultimately come from them is now beyond recall, and must be left for the coming generation, to which the subject henceforth belongs, to regulate according to its circumstances and judgment. At the same time the last year has left no doubt that, so far as legal principles are involved, the process of reconstruction has reached its possible limits. The powers originally reserved by the Constitution to the States are in future to be held by them only on good behavior, and at the sufferance of Congress. They may at any time be suspended or assumed by Congress. Their original basis and sanction no longer exist, and if they offered any real protection against the assumption of supreme and uncontrolled power by the central government, that protection is at an end. How far Congress will, at any future day, care to press its authority, or how far the States themselves may succeed in resisting the power of Congress, are questions which must be answered by a reference to the general course of events. Something may be judged of the rate of progress from the theory so energetically pressed during the past season by Senator Sumner, that the New England system of common schools is a part of the Republican form of government as understood by the framers of the Constitution, an idea that would have seemed to the last generation as strange as

though it had been announced that the electric telegraph was an essential article of faith in the early Christian Church. Something also may be judged from the condition of New York City and the evident failure of the system of self-government in great municipalities. Something more may be guessed from the rapid progress of corruption in shaking public confidence in State legislatures. Finally, something may be inferred from the enormous development of corporate power, requiring still greater political power to control it. But under any circumstances the first decisive, irrevocable step towards substituting a new form of government in the place of that on which American liberties have heretofore rested, has now been taken, and by it the American people must stand.

The financial questions, if not so important as those of reconstruction, had at least the advantage of greater freshness and novelty. Reduction of taxation was the popular cry. Reform of taxation was equally essential. Secretary Boutwell, and with him, though less positively the President, resisted at the outset either reduction or reform. The process of bond-buying supplied in Mr. Boutwell's mind the want of any more difficult intellectual conception, while in regard to free-trade ideas the Secretary, like all political New England, sympathized with the President in his cold indifference to them. The revenue reformers had not expected such a result. They were not prepared for the hostility they met from the administration, and they were thus placed in a position of great difficulty and embarrassment.

Whatever was the reason that the President leaned to high protectionist ideas, no one was more surprised or less gratified than many of his warmest friends when they found the fact announced in his Message. Undoubtedly the reformers had hoped and expected to have his sympathy in their efforts for revenue reform, as they had hoped it in regard to civil-service reform, and as they received it in the case of the currency; nor is there any reason to suppose that the President, even on so important a subject as this, acted from any very firm conviction, or considered the matter in reference to any general class of political ideas. Nor can the responsibility for the President's course be thrown upon his Secretary of the Treasury,

since Mr. Boutwell on this subject, as on all others, except one, abnegated influence. The difficulty was that the administration, without any active hostility, blocked the path of the reformers. It would consent to no absolute war upon them, but its practical influence was more mischievous than the bitterest warfare. To break down the huge monopolies which the central government had created and was now engaged in supporting, and whose corrupt influence was felt at every step, blasting all attempts at honest legislation, seemed the first and most pressing necessity to those who believed that a purer political and moral atmosphere was only to be found by freeing the country from them. But to do this by mere disjointed, unorganized effort, without support from the administration, and in face of a large party majority ; to do this against the sneers and contempt of every Republican Congressman from New England, without a single voice of open or secret encouragement ; and at the same time to meet and overcome the virulent bitterness of Pennsylvania and her organized body of allies ; to do it all by means of the Republican party when the Republican party in Congress dreaded nothing so much as the necessity of meeting this issue, seemed a project of hopeless temerity. Nevertheless, there was nothing left to choose. Since the administration refused to lead, the reformers were compelled to advance alone.

The small body of men in and out of Congress who were determined to force the issue upon it began the winter under every influence of discouragement. Not only had the President abandoned them, but Congress was wholly in the hands of their opponents, and the Committee of Ways and Means, entirely controlled by the protectionist influence, had prepared an ingenious bill, calculated to reduce taxation and to check popular complaint, but still more carefully constructed to maintain and increase the protecting duties wherever special interests had asked it. The readers of this Review probably understand the general argument on the subject of tariff reform sufficiently well to need no dissertation upon principles of taxation. It is enough to say that the present Congress had been considered as more thoroughly devoted to protectionist ideas than any of its predecessors, and that about fifty Democratic votes were all that could be classed as determined for free

trade, with the exception of three or four Western Republicans. Tariff reform, as advocated by Mr. D. A. Wells, commanded a certain amount of sympathy, but its friends in the House were few and timid, while the suspicion of free trade sounded to the ears as terrible a charge as that of having worn a rebel uniform or having been out with the Ku-klux clan. To convert such a body of men from their early principles, by such small means as the reformers could command, was a desperate undertaking. The friends of reform, therefore, quitting in despair the President and his Cabinet with their stolid inertia and cold neutrality, and Congress with its bristling hostility, turned back to ask counsel of the great popular masses. They had worked throughout the summer and autumn with all the energy they possessed, and they continued to work throughout the winter, not in the lobbies of the Capitol nor in the ante-chambers of the departments, but directly and earnestly upon popular opinion. As spring approached they began to resume confidence. The little body of political leaders in Washington, whose interest was sharpened by their anxiety to maintain their control of their constituencies, received from every quarter beyond the Alleghanies, with few exceptions, assurances of popular sympathy and support, so vigorous and so universal, that their tone began insensibly to change from depression to boldness, and they already felt themselves strong enough to do without the administration if the administration could do without them. From every great organ of public opinion in the Western country they poured out a volume of argument and appeal that no possible popular influence could for a moment resist. Party lines were broken under their incessant attrition. Members of Congress began to hesitate, to consult, and to seek information. The formal opening debate upon the new tariff developed the existence of a feeling such as no one had expected, and such as had rarely if ever been known even in the days of Henry Clay. And when the bill went into committee to be taken up in detail, it is hard to say who were more astonished, protectionists or reformers, to learn that in the very first division the reformers carried the reduction on sugar by a majority of two.

Then ensued a struggle which utterly dumbfounded the

friends of the tariff, who at first refused to credit their defeat, and insisted on considering it as an accident due to the absence of their allies. But when the same result occurred again and again, while the resistance to the bill became more and more general instead of diminishing, they slowly began to comprehend their danger. General Schenck, who made every effort to force his measures through the House, with far more success than any other member could possibly have obtained, soon lost his temper, having at best no very considerable supply of temper to lose, and described his difficulties in graphic language. "There is nobody in this House," said he, "upon either side, there is nobody anywhere that has watched the progress of the Tariff Bill through the Committee of the Whole, who does not know that peculiarly, and beyond perhaps the manifestation of hostility and attack upon any other measure in this or almost any former Congress, it has been fought inch by inch, step by step, line by line, persistently, with heavy attacks and with light attacks,—and most frequently light. I defy a denial of that." The fact was not one which the reformers proposed to deny. Not only did they intend to resist all increase of protective duties, but they meant to lower the duties wherever they could. They urged their amendments to every line and word with a persistency which astonished themselves, and, what was still more surprising, the House in Committee of the Whole supported their efforts, and drove the Committee of Ways and Means to amend its own bill. Nor did their success end here. The whole subject was forced before the public attention, and the political issue for the coming elections was marked out beyond the possibility of evasion. It remains to be seen what course parties will think proper to adopt, but the experience of the winter warrants the belief that party lines have, in this long struggle, been so rudely shaken that the Republican leaders will do well to consider the advantages of accepting some positive policy.

Meanwhile Mr. Boutwell yielded so far to the popular outcry that he unwillingly accepted the necessity of reduction, if not of reform, of the taxes, and the President showed signs of yielding to both demands. Their acceptance of the principle of reform, though too late to give any real aid to reformers,

might perhaps have served to save a few Republican Congressmen from defeat in the autumn elections, but it was a sign of weakness rather than of strength, and indicated a want of stability which had scarcely been expected. As for Mr. Boutwell's persistent efforts to obtain authority to fund a portion of the debt, the subject is somewhat too technical for ordinary readers, and is fortunately very subordinate in importance. Whatever respect Mr. Boutwell's policy deserved, it received extremely little, and may be dismissed without further comment. In regard to the currency, where reform ought properly to have begun, no approach to agreement could be made. The subject was amply discussed, both formally and informally. Every method of contraction, both direct and indirect; every process of acting on the national greenback circulation through the national banking currency, or on the banking currency through the greenback circulation, on either separately or on both at once; every theory, no matter how new or how old; every objection, no matter how frivolous,—all in turn were argued and laid aside, because public opinion was not yet ripe for action. As usual, nothing could be done by the government, which invariably fails to govern. It was necessary to go back to the people.

In the midst of this universal deadlock on every issue except reconstruction, the Supreme Court on the 7th of February pronounced its decision that the Legal-Tender Act, so far as it applied to debts contracted before its passage, exceeded the authority of Congress, and assumed powers forbidden by the Constitution.

To any one who places himself on the stand-point assumed at the outset of these remarks, it is obvious that the decision of the Supreme Court must have appeared not only sound in itself, but the single step which had been taken by any department of the government since the close of the war, towards the restoration either of a solid basis to the currency or of a solid foundation to the republic. It was a moderate and cautious reassertion of the fundamental principle on which the private liberties of the American citizen had been originally based. It was the only indication yet seen that Hamilton and Madison might have been right in hoping that their system of

checks and balances would operate to restore an equilibrium once disturbed by the exigencies of a troubled time. As such it received universal popular acquiescence. Hardly a murmur was raised against it by the press. Only in Congress, where opposition might naturally have been expected, was there any sign of hostility to a movement which indeed was threatening to the usurped power of Congress alone, and only in the Senate, which has always been, as it always must be, the furnace of intrigue and aggression, was it expected that there would be any actual attack upon the Court.

The public naturally assumed that the administration would be glad to accept and support this decision, not only because the interests of the Executive and the Supreme Court are identical, nor only because this special decision tended to check the arrogant and domineering congressional power, which had been felt in a manner so humiliating by the present Cabinet, but because the decision strengthened the declared policy of the President in regard to the currency, and was in itself a partial withdrawal of the entire government from the false position into which it had confessedly been forced by the exigencies of war. Hence, although it was no matter of surprise that Senators instantly declared that the decision should be reversed, and that no candidate favorable to the decision should be confirmed to either of the vacant seats on the Supreme bench, yet a very strong feeling of surprise and astonishment was perceptible when gentlemen supposed to be thoroughly well informed asserted that the President, the Secretary of the Treasury, and the Attorney-General were agreed in considering the decision as an attack upon the policy of the war, a denial of necessary powers to Congress, and a Democratic electioneering trick. And the incredulity was great when authority above any ordinary doubt further asserted, on direct information from the White House, that neither Judge Bradley nor Judge Strong would have been nominated to the bench, had it been supposed that either of them favored the legal-tender decision. These nominations, whether influenced by such a consideration or not, were such as to remove all doubt from Senators' minds in regard to this particular difficulty, while at the same time little doubt could remain in the public mind that a re-

versal obtained by introducing on the bench two gentlemen occupying the position of Messrs. Strong and Bradley would establish beyond dispute a precedent for packing the Court whenever it suited Congress to do so, and thus destroying forever the independence of the Judiciary as a co-ordinate branch of the American government.

Judge Strong took his seat on the 14th of March. Judge Bradley was confirmed by the Senate a week later, and summoned by telegraph to Washington. He took his seat on the 23d of March. Two days later, at the earliest possible moment, the Attorney-General surprised the Court by moving to take up and argue two cases formerly passed over, which involved the principle of the legal-tender decision.

In the course of the Attorney-General's remarks he spoke as follows : —

“This Court, at a time when by law it consisted of nine judges, did by a majority of four to three enter its judgment, with two vacancies upon the bench, and it stands therefore, reducing it to its essence, that upon the judicial opinion of a single man, whose voice turned the majority, that great question is adjudicated. And if (which is a supposable case) it turned out that it was an opinion about which even the deciding judge of the Court had entertained a different opinion at some other time, it would come down to the point that on the differing opinions at different times of his life of a single man, the whole constitutional power of Congress . . . was to be subverted.”

What answer this personal attack on the Chief Justice would have received had it been made by an Attorney-General of Massachusetts before the Supreme bench of that State, with Hoar, C. J., presiding, must be a mere matter of opinion, only to be decided by an appeal to that high tribunal under the specified conditions. He would, however, have been a rash Attorney-General who attempted to browbeat a court so constituted. Nor is it a question worth discussing whether the opinions of the Secretary of the Treasury in 1861 were the same as those of the Chief Justice in 1870, unless the Attorney-General meant to impute dishonest and culpable motives as the cause of change ; and if this were in fact the intention, the Chief Justice might probably have been satisfied with pointing out, not to the Attorney-General, but to the Court,

the passage in the Secretary's official Report of 1862, the next expression of opinion made by him to Congress after the adoption of legal tender, where he took occasion distinctly to avow his opinion that "gold and silver are the only permanent basis, standard, and measure of values recognized by the Constitution." But though these points are rather matters of taste than of reasoning, in some other respects the assertions of the Attorney-General went to the verge of fair dealing, especially from an officer who was appealing to two new judges created by himself, and asking them to overthrow existing law. Strictly speaking, he was no doubt correct in saying that judgment was entered while there were two vacancies on the bench, and by a majority of four to three. Judgment was entered on the 7th of February. But the Attorney-General must surely have been aware of the fact, which has since been made public by the appearance of the 8th Wallace's Reports, that the decision in the case of *Hepburn against Griswold* was settled so long before as November 27, 1869, and that the decision itself was read and adopted by the Court on the 29th of January, by a majority of five to three, at a time when the Court by law consisted of eight judges, and there was no vacancy on the bench. If the actual entry was postponed another week, it was probably only because the minority opinion was not yet fully prepared, so that the Attorney-General, by using this argument, was in fact running extreme danger on the one hand of subjecting Justice Miller to the unfounded suspicion of having purposely delayed the entry, in order to lay the Court open to this precise attack, and, on the other hand, of subjecting himself, in the minds of persons who were not familiar with his absolute and unconditional honesty, to the charge of acting in collusion with Justice Miller.

What occurred when the Court retired for consultation might be guessed from the subsequent scene in open Court on the 11th of April, with clearness enough to leave little doubt as to the suspicions the public, with or without reason, would certainly entertain if the Attorney-General carried his purpose. Chief Justice Chase, and Justices Nelson, Grier, and Field, appear to have agreed in the statement that the two cases referred to by the Attorney-General had been passed over by

the Court with the understanding that they should abide the result in the case of *Hepburn against Griswold*, and that counsel had been so ordered. There would seem to have been no reasonable doubt as to the fact, and both Mr. Carlisle, counsel for the appellants in these cases, and Mr. Norton, the solicitor for the Court of Claims, from which the appeal had been taken, subsequently informed the Court that they had both so understood, and had received the order as stated. The ground taken by Justices Miller, Swayne, and Davis is not clearly understood, but these judges must have either rested on the fact that the order was not recorded, or they must have pleaded want of memory. It does not appear that they actually denied the order, and it is scarcely possible that they can have taken such a position, since it would have been extremely embarrassing to them to maintain it. It remained for the new judges to decide the dispute, and they did accordingly decide that the order had not been given. As the public might probably put the issue, the two new judges decided that the understanding of the Court, made long before they came upon the bench, was exactly the reverse of what it had undoubtedly been.

The Court therefore determined, by a majority of five to four, that the cases should be argued, and already, on the motion for further delay, a scene was presented to the public such as had rarely, if ever before, been offered by this dignified tribunal. It was evident that the four dissenting judges, the late majority, felt that they were in the position of criminals, to be tried by their own colleagues at the order of the Executive and the Senate, and it was equally evident that they had made up their minds to resist the attack with all their energy. If the administration, even with all the overgrown power of Congress behind it, imagined that the Supreme Court could quietly submit to such humiliation as awaited it, the administration was mistaken; but if, as was naturally inferred, the government was prepared for and invited the most desperate resistance of the minority, there was reason for the deepest public anxiety. Unquestionably the minority must have resisted with desperation, and unquestionably it would have been crushed by the President and Congress. The most memorable example in American history of partisan attack on the Judi-

ciary was the impeachment of a judge whose name and family suggested an ominous precedent for a similar political outrage at the present day. And although the time has probably passed when impeachments were popular, the chance of the present Chief Justice before the present Congress would even now be a subject of speculation far too delicate for a hasty opinion.

Whether the administration as a whole would have allowed itself to be drawn into such a struggle may well be doubted, but the determined character of the Attorney-General leaves no doubt that he would have begun nothing which he did not feel it his duty to press to the extremest logical conclusions, and he had at this moment the Senate behind him. The administration might have broken to pieces, but could not have stopped a struggle once begun. Hence many persons began to watch the course of events with great uneasiness, and although little was known of the personal feelings of the contending parties, yet it was obvious that the Executive was pressing with extreme severity on the Court, and the Court was already split into two hostile camps. Even among the people this struggle had begun to rouse deep interest. Perhaps the only point on which all men and all parties are agreed is that the independence of the Judiciary ought to be preserved, and it must be remembered that the dominant political party was now on the point of giving this cry to its antagonist. What the result would have been on the popular verdict was not for an instant doubted by those who had occasion to feel the force of the rising current of opinion.

Fortunately for the Court, for the administration, and for the country, the danger, which for a moment seemed inevitable, was evaded. On the morning of the 20th April, the day fixed for the hearing, the judges and the counsel went to the Capitol ready to face the issue. It was an occasion of extraordinary interest, a practical struggle between the dignity of the Court and the power of Congress,—an unequal match, in which public sympathy could not but cluster about the four arraigned judges. Ordinary observers could only think with terror of the irreparable harm that would result if these four judges, dragged into a political contest, should be held up by popular enthusiasm as the noble objects of a miserable per-

secution, while the two new justices became the mark of violent popular hatred, and the Court itself, torn to pieces by party passions, became the centre of political strife. At this moment such a result was almost reached. There seemed to be no hesitation on any side, either among the three dissenting judges, or the two new judges, or the four judges of the old majority, and least of all in the Attorney-General, whose mind appeared to be bent with that peculiar intensity which is the historical or traditional ideal of New England character, on converting, as he would say, or, as others might think, on crushing the obnoxious Court.

All these separate actors, their internal anxieties or passions concealed as well as might be under the calm and serious exterior which belongs to the presence of justice, arrived at the Capitol only to be confronted by what had the appearance of a stupendous practical joke. The appellants had that morning withdrawn their appeal, and the cases were no longer before the Court. Probably every man of the whole party breathed freer after his first moment of surprise, and yet the effect of the sudden change was to cover the whole proceeding with ridicule. Even the Attorney-General, whose dignity was most impaired by this trick of his 'opponents, must, after the first impulse of annoyance, have enjoyed the humor of the situation, and confessed that for once the wit was not all on his side. But whether he accepted his fate with good temper or not, it was soon evident that his whole plan of procedure was hopelessly disarranged, and although he struggled against defeat and pressed another motion to reopen the case of *Hepburn against Griswold*, the point seemed to have been reached beyond which none of the judges were willing to go in straining the rules of the Court, and as neither of the four who made the decision desired it to be reopened, the Attorney-General's motion was without dissent refused.

Thus this great peril was, by a mere trick, happily escaped, and the Court was saved from almost certain destruction. But its rescue was due to no strength of its own, to no aid from the Executive, to no mercy from either branch of Congress. It was a momentary relief from a pressing danger, but there was nothing to indicate that the danger had passed away, and

whenever the Court was again placed under the necessity of asserting the law as declared in the Constitution, it was little likely to be again preserved by a trick of counsel.

If now from the confused arena of internal politics the reader turns to the region of foreign affairs, he will find only a repetition of the same class of phenomena, offering little evidence of political progress, but strongly pointing to some political change that cannot be avoided in a no distant future.

Foreign affairs, so far as they have had immediate importance during the last year, may be divided under two heads. In regard to each of these divisions the single controlling interest has been found in the extension of the national territory. There is no other real point at issue than this, in the foreign relations of the United States, whatever individuals may suppose, and the two heads into which this general subject of territorial enlargement divides itself are only distinct in so far as one embraces all possible extension to the north; the other, all movement towards the tropics.

Of all the departments of the government, that of foreign affairs has been, on the whole, most steady and uniform in its policy since the earliest days of the republic. It has acted upon a single general principle, which has slowly developed itself with the national progress until now it is rapidly approaching its possible limits,—the steady absorption of all the neighboring territory. The policy of Mr. Seward was based upon this fixed idea, which, under his active direction, assumed a development that even went somewhat too far and too fast for the public, and, in consequence, although it was understood that President Grant was in general sympathy with Mr. Seward, yet the new administration came into power under influences that amounted to a reaction.

Little need here be said in regard to the questions in dispute with England, except that time has only made the fact more and more clear that the only essential obstacle to a settlement is the English occupation of Canada. The effort of Mr. Seward to settle the claims by arbitration, and to leave the Canadian question to seek a settlement in the natural course of events, was rejected by the Senate mainly because the Senate meant that the first issue should be retained as an instrument

to force the solution of the last. Without any comment upon the dignity or elevation of this policy, or upon the manner and spirit in which it has been carried out in practice, it is enough to say that the new administration on assuming office found the policy already determined by the Senate, and accepted it as a matter in regard to which the Executive was not consulted and had no voice. The entire subject may be here dismissed with the general remark, which time may be trusted to verify, that every separate item of American relations with England or her colonies, large or small, — whether it was a question of treaties, of claims, of boundaries, of neutrality, of Fenians, or of coal and lumber, — whether treated by the Executive, by the Senate, by the House, or by individual members of the entire government, — under every form and every disguise, has been primarily and principally considered, subject to the rules of international custom, in its separate bearing on the subject of annexation. Thus at least some progress has been made towards simplifying the issues, and although the American government can scarcely say in so many words that it is willing to settle its claims on these terms, and on these terms alone, and although if it did say this, there is no power in the government upon which England, since her last year's experience and the failure of the St. Thomas treaty, could rely for a pledge that the engagement would be kept, yet at least, even though no distinct path out of the difficulty has thus far been discovered, it is clear in what direction the path must lie, and that sooner or later, probably pacifically, but at any rate inevitably, the end will be reached by its means. This opinion is based upon no private sources of information, on nothing that is secret or unknown to all the world. He would be a poor observer who could not catch the general drift of personal as well as public influences from indications which are as public as the press itself.

The Northern policy was, therefore, simple enough, and Mr. Fish, who was personally not responsible for its creation, carried out his share of it with a tact and good temper which gained for him and for the administration general and even universal credit. But the issues involved on the side of the tropics were far more difficult, and the variance of opinion was

far more strongly marked. From the first moment of the new administration the policy of active interference in the Antilles was forced upon its attention in a manner which left no chance of escape. The St. Thomas treaty, under which a popular vote had already been taken and the island formally transferred to an authorized agent of the United States government, had been for some six months reposing on the table of the Senate Committee of Foreign Relations. If the government meant to pursue a policy of annexation in the Antilles, it was peculiarly bound, by every obligation of international decency and of common self-respect, to begin with the ratification of this treaty. Indeed, there may be a grave doubt whether the obligation to ratify was not absolute and irrespective of conditions, but in any case the refusal to ratify this treaty was only to be excused on the understanding that it implied a reversal of the policy of annexation. Whether this excuse was ever actually offered to the Danish government as a bar to its remonstrances is a fact which could be ascertained only by reference to the Danish government itself, nor is it a question of real importance. The essential point is that a government should act with self-respect and honest intentions. The refusal to ratify the St. Thomas treaty was a strong measure which gravely compromised the dignity of the government and found its only excuse in the firm conviction that any annexation to the southward of the continent was a danger and a mistake. Moreover, it is absurd to suppose that the Senate can have one policy and the Executive another. For the policy that prevails the whole government must be held responsible, and the Executive cannot throw off this responsibility.

If a new tendency to check the national extension was brought to light by this treatment of the St. Thomas treaty, it was made still more conspicuous in regard to Cuba by the voluntary action of the Executive. It was well known that the President personally leaned towards interference in Cuban affairs, and that his Secretary of War, General Rawlins, was earnest in his support of the Cuban insurgents. Nevertheless it was evident that the influence of Mr. Fish had succeeded in checking this bent of the Executive, and that the Secretary had, with his usual good sense, saved the country from a very

embarrassing complication. Further, it was understood that, in order to obviate the want of a harbor in the West Indies, the St. Thomas treaty being practically rejected, the Bay of Samana would be permanently leased and occupied as a naval station. All these movements indicated that a new policy had been adopted by the government in regard to its southern relations, and that after mature deliberation it had been finally decided that the present administration would assume as the basis of all its future connection with the Antilles the principle which was soon to find utterance in the concise formula: "No annexation within the tropics."

Suddenly the San Domingo treaty made its appearance. Whence it came, why it was made, what influences supported it, are matters which no one has hitherto explained. One point alone was clear, and this was that the San Domingo treaty stood in flat opposition to the entire policy pursued down to that moment by the administration towards the West Indies, and it is as certain as anything resting on mere *a priori* reasoning can be, that neither Mr. Fish nor his colleagues as a body could possibly have sympathized in the proposed annexation, which was contrary to all their modes of thought and to their political education. No one would have believed them had they asserted their approval. No one did believe in Mr. Fish's earnestness, even though he loyally and energetically supported the treaty. The inference was only too obvious, and it is one which the public had a right to draw, that as heretofore Mr. Fish and his colleagues had succeeded in bringing the President over to their point of view in regard to Cuba and St. Thomas, so the President had now broken through the restraint and overruled Mr. Fish in regard to San Domingo.

A foreign policy so unsteady as this could scarcely be expected to command respect, although respect was precisely what the Cabinet most needed to command. Whatever the administration might choose to do, it was little likely that the Senate would follow its changes of opinion, and it must be allowed that for once the Senate had the strength of argument as well as of power on its side, while the administration put itself in a position where success or failure was almost equally

disastrous. Senator Sumner again stood forward to assume the control and direction of foreign affairs. He again wielded the power of the Senate and declared the policy of the government. The President and Mr. Fish struggled in vain against this omnipotent senatorial authority, although the President went so far as to make the issue one of personal weight, and condescended to do the work of a lobbyist almost on the very floor of the Senate Chamber, using his personal influence to an extent scarcely ever known in American experience, and offering a curious commentary on his own theory of executive duties. Mr. Sumner flung them both aside and issued his orders with almost the authority of a Roman triumvir.

What is to be the ultimate result of this contest, so far as regards the foreign policy, is a subject which may be left for future annual Reviews to discuss, as the situation of affairs becomes more clearly determined. There is room for more than a doubt as to the possibility of checking the growth of the country by the adoption of any arbitrary law in regard to the tropics, and it seems most probable that the resistance now made to this annexation of countries little fitted to enter into the duties of American States will ultimately yield to the growing public indifference to the States themselves. But from another point of view this whole affair had a still deeper significance, as showing an unsteadiness and a spasmodic irregularity of action in the Executive which, when contrasted with the opposite qualities displayed by the Senate, indicate clearly enough that the regular diminution of executive authority which was first clearly marked under Andrew Johnson, has not been checked, but on the contrary has been aggravated by the appearance of some internal weakness never before known in the history of American administrations. The success of any executive measure must now be bought by the use of the public patronage in influencing the action of legislators. The Executive has yielded without a protest to this necessity which it has helped to establish. Senators already claim special executive offices as their private property, and their claim is conceded. A Senator from Michigan claims a consulate in India; a Senator from Maine claims a consulate in England; a Senator from Kansas claims the mission to the Hague, and as proof of his

right of property nominates the Clerk of his Committee to the post. A Senator who desires the removal of an excellent officer does not scruple to accuse a member of the Cabinet of interference with his patronage if his request is denied. Senators do not hesitate to insult the President by rejecting one nomination to the Supreme Court because the candidate as member of the Cabinet has failed to reach their own standard of polished manners; nor to intimate their firm intention of rejecting any required number of others unless the candidates are prepared to reverse, as judges of the Supreme Court, the established constitutional law which limits the powers of Congress. Notwithstanding the exceptional case of San Domingo, the Executive has practically abandoned to the Senate the treaty-making power. The Executive has joined with Congress in assuming the powers reserved to the States, and in attacking the authority of the Supreme Court, while the precedent of the legal tender action appears to warrant the belief that Congress and the Executive have also established the principle that they hold between them the power to suspend private rights, not merely during war, but during will.

But this is not all. Not only has the whole internal fabric of the government been violently wrenched from its original balance until Congress has assumed authority which it was never intended to hold, but as the country grows and the pressure of business increases, the efficiency of the machine grows steadily less. New powers, new duties, new responsibilities, new burdens of every sort, are incessantly crowding upon the government at the very moment when it finds itself unequal to managing the limited powers it is accustomed to wield. Responsibility no longer exists at Washington. There is not a department of the Executive which does not say, with truth, that it cannot deal with the questions before it because Congress neglects legislation. If members of Congress are charged with responsibility for the neglect, they reply that the fault is not theirs; that the action of Congress is wholly in the hands of committees which constitute small, independent, executive councils; that some of these committees are arbitrary, some timid; some overpoweringly strong, some ridiculously weak; some factious, some corrupt. The House has little or no

practical control over the course of business. The rules have become so complicated as to throw independent members entirely into the background. The amount of business has become so enormous as to choke the channels provided for it. In the Senate there is greater power, less confusion, and more efficiency, but on the other hand there is more personal jealousy and factiousness. In both Houses all trace of responsibility is lost, and while the Executive fumes with impatience or resigns itself with the significant consolation that it is not to blame, that this is the people's government and the people may accept the responsibility, the members of the lower House are equally ready with the excuse that they are not responsible for the action of Senators, and Senators, being responsible to no power under Heaven except their party organizations, which they control, are able to obtain precisely what legislation answers their personal objects, or their individual conceptions of the public good.

Under the conditions of fifty years ago, when the United States was a mere child among nations, and before railways and telegraphs had concentrated the social and economical forces of the country into a power never imagined by past generations, a loose and separately responsible division of government suited the stage of national growth, and was sufficiently strong to answer the requirements of the public. All indications now point to the conclusion that this system is outgrown. The government does not govern; Congress is inefficient, and shows itself more and more incompetent, as at present constituted, to wield the enormous powers that are forced upon it, while the Executive, in its full enjoyment of theoretical independence, is practically deprived of its necessary strength by the jealousy of the Legislature. Without responsibility, direct, incessant, and continuous, no government is practicable over forty millions of people and an entire continent, and no responsibility exists at Washington. Every one who has the least acquaintance with the process of American government knows that the public business is not properly performed.

Meanwhile, reformers are straining every nerve to carry such a reform in the tariff as may make the system, not indeed good,—they cannot even hope this,—but a shade less fla-

grantly absurd, less ridiculously mediæval, less abominably dishonest, than it now is. Perhaps, as the result of unremitted labor extended over a period of years, they may ultimately succeed in carrying their point. The national government may at last be obliged to drop the unhealthy children whose precocious birth and growth it has stimulated by drugs and drams, and their corrupt political influence may vanish from the Capitol. But while the whole reforming strength is laboriously concentrated on the people, with no further object than to obtain the physical force to contest the possession of the national government with a single creature of the government's own creation, the government all the while continues to call into being other creatures far more fatal to its integrity than those which already control it. While the reformers in Congress rejoice at their victory in carrying a small reduction on pig-iron, or regret the omnipotence of the steel lobbyists, they turn about in their seats and create by a single stroke of special legislation a new Pacific railway, an imperishable corporation, with its own territory, an empire within a republic, more powerful than a sovereign State, and absolutely inconsistent with the purity of republican institutions, or with the safety of any government, whether democratic or autocratic. While one monopoly is attacked two are created; while old and true believers in republican purity and simplicity are engaged with desperate earnestness in resisting a single corruption, they are with their own hands stimulating the growth of many more. Nor is the fault theirs. The people require it, and even if the people were opposed, yet, with the prodigious development of corporate and private wealth, resistance must be vain.

Two points, separate and distinct to outward appearance, but closely connected in reality, have forced themselves upon the discussion proposed by this Review. The first has consisted in the general evidence which tends to show that the original basis of reserved powers on which the Constitution was framed has yielded and is yielding to natural pressure, and the gradual concession of power to the central government has already gone so far as to leave little doubt of the conclusion that the

great political problem of all ages cannot, at least in a community like that of the future America, be solved by the theory of the American constitution. The second has rested on the correlative evidence which points sharply to the conviction that the system of separate responsibility realized in the mechanism of the American government as a necessary consequence of its jealous restriction of substantial powers, will inevitably yield, as its foundation has yielded, to the mere pressure of necessity. The result is not one on which it is pleasant to look. It is not one which the country is prepared to accept, or will be soon in a temper to discuss. It is not one which it will hear announced by its professional politicians, who are not greatly accustomed to telling unpleasant truths. Nor is it here intended to point out, or even to suggest, the principles of reform. The discussion of so large a subject is matter for a lifetime, and will occupy generations. The American statesman or philosopher who would enter upon this great debate must make his appeal, not to the public opinion of a day or of a nation, however large or intelligent, but to the minds of the few persons who, in every age and in all countries, attach their chief interest to the working out of the great problems of human society under all their varied conditions.

HENRY BROOKS ADAMS.

ART. III. — COMPETITIVE EXAMINATIONS IN CHINA.

THE reform proposed in the organization of our civil service, which contemplates the introduction of a system of competitive examinations, makes an inquiry into the experience of other nations timely. England, France, and Prussia have each made use of competitive examinations in some branches of their public service. In all these states the result has been uniform, — a conviction that such a system, so far as it can be employed, affords the best method of ascertaining the qualifications of candidates for government employment. But in